



LAW OFFICES OF KEVIN D. KASCHKE, LTD.
3105 KING ALFORD COURT
SAINT CHARLES IL 60174

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of
Phillip G. Spaniol et al.
Application No. 09/830,005
Filed: April 21, 2001
Attorney Docket No. FT002R

ON PETITION

This is a decision on the "Petition for Request for Withdrawal of Holding of Abandonment pursuant to 37 CFR 1.181(a) and pursuant to MPEP 711.03(c)" filed February 2, 2009.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on September 2, 2008 for failure to file a timely response to the Final Office Action mailed May 29, 2008, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 23, 2008.

Petitioner asserts that a proper response in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 and three month extension of time was filed on December 1, 2008. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of mail dated December 1, 2008, pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged. The fee for the RCE, Extension of Time and new claim fees have been applied.

This matter is being referred to Technology Center 3652 for appropriate action on the RCE and amendment filed December 1, 2008, a copy of which was submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions